

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                        |   |              |
|------------------------|---|--------------|
| TED A. MCCrackEN       | : | CIVIL ACTION |
|                        | : |              |
| v.                     | : | NO. 17-4495  |
|                        | : |              |
| R.J. REYNOLDS TOBACCO  | : |              |
| COMPANY, <i>et al.</i> | : |              |

**ORDER**

AND NOW, this 21<sup>st</sup> day of May 2018, upon considering Defendants' Motions to dismiss (ECF Doc. Nos. 36, 37) the Second Amended Complaint, the *pro se* Plaintiff's Oppositions (ECF Doc. No. 46, 47) and for reasons in the accompanying Memorandum, it is **ORDERED**:


1. Defendants Crew, Levin, and Taylor's Motion to dismiss (ECF Doc. No. 36) is **GRANTED** and we **dismiss** them without prejudice to Plaintiff moving to timely amend under Fed. R. Civ. P. 15 after adducing proof of personal jurisdiction;

2. Defendants ITG Brands and R.J. Reynolds' Motion to dismiss for failure to state a claim (ECF Doc. No. 37) is **GRANTED in part** and **DENIED in part** and all of Plaintiff's claims against ITG Brands and R.J. Reynolds are **dismissed** without prejudice except Plaintiff may now proceed into discovery on his claims for:

a. "failure to warn" against ITG Brands for alleged 1966-1969 conduct;

b. "design defect" against ITG Brands and R.J. Reynolds for allegedly adding "excessive nicotine" to increase addiction; and,

3. Defendant ITG Brands and R.J. Reynolds shall answer these remaining allegations no later than **June 5, 2018**.

  
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KEARNEY, J.